

**ORIGINAL**

1 **MOHAMMED ABUZIR<sup>1</sup>**  
2 **A95-700-812**  
3 **San Diego Detention Center (CCA)**  
4 **PO Box 439049**  
5 **San Ysidro, CA 92143-9049**

01 CV 2249 IEG

FILED  
07 NOV 27 PM 3:42  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY

6  
7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 **MOHAMMED ABUZIR,**  
10 **[A95-700-812],**

Civil Action No.

11 **Petitioner,**

12 **v.**

**PETITION**

**FOR**

**WRIT OF HABEAS CORPUS**

13 **MICHAEL CHERTOFF, SECRETARY**  
14 **OF THE DEPARTMENT OF**  
15 **HOMELAND SECURITY, MICHAEL**  
16 **MUKASEY, ATTORNEY GENERAL,**  
17 **ROBIN BAKER, DIRECTOR OF SAN**  
18 **DIEGO FIELD OFFICE, U.S.**  
19 **IMMIGRATION AND CUSTOMS**  
20 **ENFORCEMENT, JOHN GARZON,**  
21 **OFFICER-IN-CHARGE,**

**[28 U.S.C. § 2241]**

22 **Respondents.**

23 **I.**

24 **INTRODUCTION**

25 The petitioner, Mohammed Abuzir, respectfully petitions this Court for a writ of habeas corpus to remedy  
26 his unlawful detention.

27 ///

28 <sup>1</sup>The petitioner is filing this petition for a writ of habeas corpus with the assistance of James Fife and the Federal Defenders of San Diego, Inc., who drafted the instant petition. That same counsel also assisted the petitioner in preparing and submitting his request for the appointment of counsel. Robin Baker is the director of the San Diego field office of U.S. Immigration and Customs Enforcement. He administers federal immigration laws on behalf of the Secretary of Homeland Security in the federal judicial district for the Southern District of California. In Mr. Baker's capacity as the director of the local office of U.S. Immigration and Customs Enforcement, he has immediate control and custody over the petitioner. John Garzon is the officer in charge of the detention facility holding the petitioner.

1 Petitioner is in the custody of the Secretary of the Department of Homeland Security and the Attorney  
2 General of the United States and their employees (hereinafter "respondents"). He is detained under  
3 respondents' behest and supervision at the detention facility in San Ysidro, California, under the control of  
4 the officer in charge.  
5

## 6 II.

### 7 JURISDICTION AND VENUE

8 This Court has jurisdiction under 28 U.S.C. §§ 1331, 2241(c)(1) and (3), and U.S. Const. art. I, § 9, cl.  
9 2, because the petitioner is being unlawfully detained as a result of U.S. Immigration and Customs  
10 Enforcement's misunderstanding of the provisions of 8 U.S.C. § 1231(a)(6). See Zadvydas v. Davis, 533 U.S.  
11 678, 686-90 (2001). Moreover, his detention violates the Constitution, the laws, and the treaties of the United  
12 States. See Magana-Pizano v. INS, 200 F.3d 603, 610 (9th Cir. 2000); Goncalves v. Reno, 144 F.3d 110, 123  
13 (1st Cir. 1998). Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482-83 (1999),  
14 makes clear that the petitioner's habeas petition is not barred by 8 U.S.C. § 1252(g).  
15  
16

17 Venue is proper in this district because the petitioner is detained here. See 28 U.S.C. § 2241, et. seq., and  
18 28 U.S.C. § 1391(e).  
19

## 20 III.

### 21 BACKGROUND

22 The petitioner is a Palestinian refugee, who was born in the Kingdom of Jordan. The petitioner has been  
23 ordered removed by the respondents, for failing to adhere to the conditions of his visa. However, respondents  
24 have been unsuccessful for over a year in obtaining travel documents allowing petitioner to be returned to  
25 either Israel or Jordan, who do not recognize him as a national of those countries. Since petitioner cannot be  
26 removed to his destination country or any other alternate country, he is being held by the respondents based  
27  
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1 upon a misconstrual of their statutory authority to indefinitely detain non-removable aliens under 8 U.S.C.  
2 § 1231(a)(6) and in violation of the Supreme Court's holding in Zadvydas v. Davis, 533 U.S. 678 (2001).

3  
4 The petitioner was born in Amman-Ashrafeya, Jordan, on October 24, 1985. He came to the United  
5 States in 2003, when he was 17 years old on a tourist visa, which he change to a student F-1 visa after arrival.

6 The petitioner was served with a Notice to Appear dated September 25, 2006, alleging he had failed to  
7 maintain a full course of study as required by his visa. See Appendix A attached hereto. He was ordered  
8 removed to Jordan on October 30, 2006. See Appendix B attached hereto. Petitioner waived appeal. See id.  
9 His order of removal therefore became final as of that date. See 8 C.F.R. § 1241.1(b) (removal order final  
10 if alien waives appeal).  
11

12 Petitioner has been in the continuous custody of U.S. Immigration and Customs Enforcement ("ICE")  
13 since **September 25, 2006**. ICE conducted a Post-Order Custody review and decided on **March 27, 2007**,  
14 to continue detention, claiming petitioner was a danger to the community. See Appendix C attached hereto.  
15 A subsequent review by the Headquarters Post-Order Custody Unit denied release on **July 5, 2007**, alleging  
16 that travel documents to Jordan or Egypt were imminent. See Appendix D attached hereto. However,  
17 petitioner is not a national of either of those countries, and both Israel and Jordan have refused petitioner's  
18 repatriation. Thus, petitioner remains in custody, although there is **no significant likelihood he can be**  
19 **removed** by ICE to his ordered destination or any alternative destination in the reasonably foreseeable future.  
20  
21

#### 22 IV.

#### 23 ARGUMENT

#### 24 **THIS COURT MUST RELEASE THE PETITIONER FROM THE CUSTODY OF THE** 25 **RESPONDENTS UNDER APPROPRIATE CONDITIONS OF SUPERVISION.** 26

27 Federal law requires the Attorney General to remove a deportable alien from the United States within a  
28 ninety-day period after an immigration judge's order of removal becomes administratively final. See 8 U.S.C.

1 § 1231(a)(1); see also Ma v. Ashcroft, 257 F.3d 1095, 1104 (9th Cir. 2002). During the ninety-day removal  
2 period, the alien must be detained in custody. See 8 U.S.C. § 1231(a)(2).

3  
4 If the Attorney General cannot remove the alien within the statutory removal period, the Attorney General  
5 can release the person in question under appropriate conditions of supervision, including regular appearances  
6 before an immigration officer, travel restrictions, and medical or psychiatric examinations, among other  
7 requirements. See Ma, 257 F.3d at 1104; see also 8 U.S.C. § 1231(a)(3) (listing the conditions of supervision  
8 for deportable or removable aliens released from immigration custody at the expiration of the ninety-day  
9 removal period). The Attorney General may detain a deportable or inadmissible alien beyond the ninety-day  
10 removal period, however, when he determines that the person in question would “be a risk to the community  
11 or unlikely to comply with the order of removal” if released from immigration custody. 8 U.S.C. § 1231(a)(6).

13 In Zadvydas, 533 U.S. at 689, the Supreme Court held that 8 U.S.C. § 1231(a)(6) only authorizes a period  
14 of detention that is reasonably necessary to bring about an alien’s removal from the United States, and “does  
15 not permit indefinite detention.” If a deportable alien has not been released from immigration custody within  
16 a six-month period after the issuance of a final order of removal or deportation, “the habeas court must ask  
17 whether the detention in question exceeds a period reasonably necessary to secure removal.” Id. at 699; see  
18 also Ma, 257 F.3d at 1102 n.5 (declaring that in Zadvydas, “the Supreme Court read the statute to permit a  
19 ‘presumptively reasonable’ detention period of *six months* after a final order of removal—that is, *three months*  
20 after the statutory removal period has ended”) (emphasis in original). When a deportable alien “provides *good*  
21 *reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future*, the  
22 Government must respond with evidence sufficient to rebut that showing.” Zadvydas, 533 U.S. at 701  
23 (emphasis added). Federal officials **must** release a deportable alien from custody under appropriate conditions  
24 of supervision when no “significant likelihood of removal [exists] in the reasonably foreseeable future.” Id.;  
25 see also Ma, 257 F.3d at 1100 (concluding that federal law does not permit the Attorney General to hold  
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27  
28

1 someone "for more than a reasonable period" beyond the ninety-day statutory removal window, and mandates  
2 release of the alien under 8 U.S.C. § 1231(a)(3), when the alien "has already entered the United States and  
3 there is no reasonable likelihood that a foreign government will accept the alien's return in the reasonably  
4 foreseeable future").

5  
6 The Zadvydas court erected a "presumptively reasonable" six-month detention period during which the  
7 federal government should attempt to accomplish all reasonably foreseeable removals pursuant to 8 U.S.C.  
8 § 1231. Zadvydas, 533 U.S. at 701; see also Ma, 257 F.3d at 1102 n.5. However, Zadvydas held that a  
9 detainee cannot be held beyond a period "reasonably necessary" to accomplish his or her removal from the  
10 United States. Zadvydas, 533 U.S. at 699. When that removal is no longer foreseeable, the authority to detain  
11 is lost: "Consequently, interpreting the statute to avoid a serious constitutional threat, we conclude that, once  
12 removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute. See 1  
13 E. Coke, Institutes \*70b (*'Cessante ratione legis cessat ipse lex'*) (the rationale of a legal rule no longer being  
14 applicable, the rule itself no longer applies)." Id.

15  
16  
17 The petitioner has been detained in the custody of respondents since September 25, 2006, over 14  
18 months, and was ordered deported over 13 months ago, in October 2006. Petitioner's detention is beyond the  
19 reasonable detention period announced in Zadvydas, and release is mandated. Although petitioner was born  
20 in Jordan, he is a Palestinian refugee, whose parents sought refuge, but had no legal status, there. Jordan has  
21 refused to accept petitioner, as has Israel, both countries denying petitioner has a valid claim to nationality.  
22 Nor does petitioner have any historical, familial, or legal connections to Egypt, so ICE's efforts to secure travel  
23 documents to that country are doomed to failure.

24  
25 There is no likelihood that petitioner's destination country, or any reasonable alternative destination, will  
26 grant patriation in the reasonably foreseeable future. See Zadvydas, 533 U.S. at 700; see also Ma, 257 F.3d  
27 at 1112 (holding that section 1231 mandates the release of deportable aliens "at the end of the presumptively  
28

1 reasonable detention period" when "there is no repatriation agreement and no demonstration of a reasonable  
2 likelihood that one will be entered into in the near future"). Therefore, the petitioner **must** be released under  
3 the conditions set out in §1231(a)(3). See Zadvydas, 533 U.S. at 700-01.  
4

5 V.

6 **REQUESTED RELIEF**

7 The petitioner requests that this Court order the respondents to release him from custody under the  
8 conditions of supervision set forth in 8 U.S.C. §1231(a)(3).  
9

10 VI.

11 **VERIFICATION**

12 I, Mohammed Abuzir, hereby verify that the facts contained in the instant petition are true and correct.  
13

14 Respectfully submitted,

15  
16  
17 Dated: 11-20-07

18   
19 **MOHAMMED ABUZIR**  
20 Petitioner  
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## Appendix A

U.S. Department of Justice  
Immigration and Naturalization Service

## Notice to Appear

## In removal proceeding under section 240 of the Immigration and Nationality Act

File No: A95 700 812

In the Matter of:

Respondent: Mr. Mohamed Rowhi ABUZIR

AKA: Mohammed Rowhi ABUZIR; Mohammed ABUZIR; Mohammed ABUZIER

Mira Loma Facility 45100 N. 60th St. W. Lancaster, CA 93536

(Number, Street, City, State and Zip Code)

(661) 940-3555

(Area Code and Phone Number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but deportable for the reasons stated below.

The Service Alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Jordan and a citizen of Jordan;
3. You were admitted to the United States at Seattle, Washington, on September 15, 2003, as a nonimmigrant student to attend Cypress College in Cypress, California;
4. You did not carry a full course of study from September 15, 2003 to present.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law.

Section 237(a)(1)(C)(i) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you failed to maintain or comply with the conditions of the nonimmigrant status under which you admitted.

☐ This notice is being issued after an Asylum Officer has found that the respondent has demonstrated a credible fear of persecution☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration Judge of the United States Department of Justice at:

**DATE, TIME, AND PLACE TO BE SET**

(Complete Address of Immigration Court, including Room Number, if any)

on \_\_\_\_\_ at \_\_\_\_\_ to show why you should not be removed from the United States based on the

(Date) (Time)

charge(s) set forth above.

Assistant Special Agent in Charge

(Signature and Title of Issuing Officer)

Date: September 25, 2006Santa Ana, California

(City and State)

See reverse for important information



See reverse for important information

**Warning:** Any statement you make may be used against you in removal proceeding.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witness presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

**Failure to appear:** You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during the proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the INS.

#### Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an Immigration Judge.

\_\_\_\_\_  
(Signature of respondent)

**Before:**

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of INS Officer)

#### Certificate of Service

This Notice to Appear was served on the respondent by me on 11/27/07, in the following manner and in compliance with section 239(a)(1)(F) of the Act: (Date)

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☐ Attached is a list of organizations and attorneys which provide free legal services.

☒ The alien was provided oral notice in the English language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act

\_\_\_\_\_  
(Signature of Respondent if personally served)

\_\_\_\_\_  
(Signature and Title of Officer)

## Appendix B

IMMIGRATION COURT  
45100 60TH ST., WEST  
LANCASTER, CA 93536

In the Matter of

Case No.: A95-700-812

ABUZIR, MOHAMED ROWHI  
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 10-30-06.  
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

[ ] The respondent was ordered removed from the United States to Sudan or in the alternative to .

[✓] Respondent's application for voluntary departure was denied and respondent was ordered removed to Sudan or in the alternative to .

[ ] Respondent's application for voluntary departure was granted until upon posting a bond in the amount of \$ \_\_\_\_\_ with an alternate order of removal to .

Respondent's application for:

[ ] Asylum was ( ) granted ( ) denied ( ) withdrawn.

[ ] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn.

[ ] A Waiver under Section \_\_\_\_\_ was ( ) granted ( ) denied ( ) withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( ) granted ( ) denied ( ) withdrawn.

Respondent's application for:

[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn. If granted, it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn. If granted it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Adjustment of Status under Section \_\_\_\_\_ was ( ) granted ( ) denied ( ) withdrawn. If granted it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Respondent's application of ( ) withholding of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.

[ ] Respondent is admitted to the United States as a \_\_\_\_\_ until \_\_\_\_\_.

[ ] As a condition of admission, respondent is to post a \$ \_\_\_\_\_ bond.

[ ] Respondent knowingly filed a frivolous asylum application after proper notice.

[ ] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

[ ] Proceedings were terminated.

[ ] Other: \_\_\_\_\_

Date: Oct 30, 2006

Robert O. Vicars, Jr.  
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

ALIEN NUMBER: 95-700-812

ALIEN NAME: ABUZIR, MOHAMED ROWHI

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)  
TO: ☒ ALIEN ☐ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP ☒ INS  
DATE: 10-30-00 BY: COURT STAFF SPT  
Attachments: ☐ EOIR-33 ☐ EOIR-  
28: ☐ Legal Services List ☐ Other

Q6

(Domestic Violence)

## Appendix C

Office of Detention and Removal Operations  
Los Angeles Field Office

U.S. Department of Homeland Security  
300 N. Los Angeles, Street  
Los Angeles, CA. 90012



## U.S. Immigration and Customs Enforcement

**ABUZIR, Mohamed Rowhi**  
c/o USICE Mira Loma Facility  
45100 N. 60th Street West  
Lancaster, CA 93536

A95 700 812

### Decision to Continue Detention

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file and/or your personal interview and consideration of any information you submitted to ICE's reviewing officials.

A review of your criminal history indicates that on November 10, 2005, you were found guilty of Receiving Know Stolen Property. On April 26, 2006, you were found guilty of Violation of a Court Order to Prevent Domestic Violence. Your criminal history has numerous contracts/arrests with law enforcement agencies. Although, in many of these contacts/arrests you were not formally charged your criminal behavior leads me to the conclusion, that you would be a danger to the community if released from custody. The Egyptian government is currently issuing travel documents for their nationals. Your removal appears to be imminent.

Based on the above, you are to remain in ICE custody pending your removal from the United States. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal, and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to effect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC Section 1253(a).

If you have not been released or removed from the United States by April 20, 2007, jurisdiction of the custody decision in your case will be transferred to the Headquarters Post Order Unit (HQPDU), 801 I St. NW, Washington, DC 20536. HQPDU will make a final determination regarding your custody.

Signature and Title of Deciding Official

3/27/07

Date

## Appendix D

Office of Detention and Removal Operations

U.S. Department of Homeland Security

425 I Street, NW

Washington, DC 20536



## U.S. Immigration and Customs Enforcement

Mohamed Rowhi ABUZIR (A9570081)  
C/O Immigration and Customs Enforcement  
Los Angeles Field Office

### Decision to Continue Detention

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file and/or your personal interview and consideration of any information you submitted to ICE's reviewing officials.

You are a native and citizen of Jordan/Palestine who entered the United States as a Non-immigrant in September 2003 at Seattle, WA. You have been convicted for Stolen Property, Probation Violation and Annoying Repeated Telephone Calls. On October 30, 2006, an Immigration judge ordered you removed from the United States.

A request for a travel document was submitted to Jordan and Egypt the process to verify your identity is ongoing. The governments of Jordan and Egypt regularly issue documents to effect the repatriation of its nationals. On January 29, 2007 a request for travel documents was submitted the countries of Jordan and Egypt of which both countries denied issuing travel documents on your behalf.

Based on the above, you are to remain in ICE custody pending your removal from the United States. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal, and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to effect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC Section 1253(a).

  
Signature of HQPDU Director/Designated Representative

Date: 7/5/2007



ORIGINAL

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1978, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Mohammed Abuzir

SAN DIEGO DETENTION CENTER (CCA), P.O. Box 439049

San Ysidro, CA 92143

(b) County of Residence of First Listed Plaintiff SAN DIEGO

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

MICHAEL CHERTOFF, ET AL.

County of Residence of First Listed Defendant SAN DIEGO

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

KAREN P. HEWITT, U.S. ATTY

(619) 557-5662

ATTN: CIVIL PROCESS CLERK

880 FRONT STREET, SAN DIEGO, CA 92101

'07 CV 2249 IEG (LSP)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff

☐ 3 Federal Question (U.S. Government Not a Party)

☒ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State ☒ 1 ☐ 1

Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4

Citizen of Another State ☒ 2 ☐ 2

Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (139 Sff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

Transferred from another district (specify)

☐ 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment ☐ 7

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. § 2241

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

IF ANY

JUDGE

DOCKET NUMBER

DATE

11-20-07

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE